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LETTER DATED 20 DECEMBER 1999 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to convey the attached communication, dated 17 December 1999, from Dr. Mohamed ElBaradei, Director General of the International Atomic Energy Agency (see annex).

I should be grateful if you would bring it to the attention of the members of the Security Council.

(Signed) Kofi A. ANNAN

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Annex

Letter dated 17 December 1999 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

As you will recall, in its presidential statement of 4 November 1994 (S/PRST/1994/64), regarding the Democratic People's Republic of Korea (DPRK), the Security Council, inter alia, requested the International Atomic Energy Agency (IAEA) "to continue to report to it on the implementation of the Safeguards Agreement". In this regard, I enclose a copy of my written report about the DPRK (dated 25 August 1999) submitted to the General Conference of IAEA at its forty-third regular session (see enclosure I) and of resolution GC(43)/Res/3, adopted by the Conference on 1 October 1999 (see enclosure II).

Since my letter to you of 9 October 1998 (see S/1998/940), the Agency has continued to monitor the freeze of the DPRK's graphite moderated reactors and related facilities foreseen in the Agreed Framework of October 1994 between the DPRK and the United States of America. The DPRK continues to accept Agency activities solely within the context of the Agreed Framework and not under its Safeguards Agreement with the Agency, which, as you know, is binding and remains in force.

Two further rounds of technical discussions between IAEA and the DPRK were held between my letter to you of October last year and this year's General Conference, namely, from 5 to 8 October 1998 in Vienna and from 10 to 12 March 1999 in Pyongyang. Unfortunately, however, no progress was made on important issues relevant to the DPRK's compliance with its Safeguards Agreement, including those identified in my letter of 9 October 1998, such as the preservation of information required in connection with Agency verification of the accuracy and completeness of the DPRK's initial declaration. I have made clear to the Agency Board of Governors that, unless such information is preserved in a verifiable manner, it will be difficult, if not impossible, for the Agency to verify the DPRK's compliance with its Safeguards Agreement.

At meetings of the Board of Governors throughout the year, I have reported the continuing lack of progress over key issues. At the meeting on 7 June 1999, I also noted that the Agency's Safeguards Implementation Report for 1998 recorded the continuing inability of the Agency to verify the correctness and completeness of the DPRK's initial declaration of nuclear material and, therefore, our inability to conclude that there has been no diversion of nuclear material.

In the light of the information available at that time, and of my report to this year's General Conference, the Conference adopted resolution GC(43)/Res/3. This, in keeping with previous resolutions, expressed the deep concern of the Conference about the continuing non-compliance of the DPRK with its Safeguards Agreement, urged the DPRK to cooperate fully with the Agency in the implementation of that agreement, and also to take all steps the Agency may deem necessary to preserve all information relevant to verifying the accuracy and completeness of the DPRK's initial report.

We have just completed the thirteenth round of technical discussions with the DPRK. They took place in Vienna from 13 to 16 December. During the meeting, little tangible progress was made on some of the key issues related to the preservation of information and to day-to-day activities related to the monitoring of the freeze.

I should be grateful if you would bring the text of the present letter and its enclosures to the attention of the Security Council, to which I will continue to report developments.

(Signed) Mohamed ELBARADEI

Enclosure I

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Report by the Director General to the General Conference

1. In resolution GC(42)/RES/2 of 25 September 1998, the General Conference, inter alia, decided to include in the agenda for its forty-third regular session an item entitled:

> *"Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons."*

This report is prepared to provide information to the General Conference in its consideration of this item of its agenda.

THE SITUATION PREVAILING AT THE TIME OF THE FORTY-SECOND REGULAR SESSION OF THE GENERAL CONFERENCE

2. The Director General's report to the General Conference in 1998, in document GC(42)/16 of 26 August 1998, recorded continuing lack of progress on a number of important issues which have remained outstanding since the Agency started to implement monitoring of the freeze on the DPRK's graphite moderated reactors and related facilities in November 1994. Such issues include the preservation of information required for verifying the accuracy and completeness of the DPRK's initial declaration under its Safeguards Agreement (INFCIRC/403); its refusal to accept certain safeguards measures at its reprocessing plant; and limitations imposed by the DPRK on inspector access to technical support buildings subject to the freeze. The Director General's report also noted the conclusion in the Safeguards Implementation Report (SIR) for 1997 with regard to the DPRK and explained the situation with regard to the canning of spent fuel rods at the Experimental Power Reactor, including the intention to reduce the continuous presence of Agency inspectors from three to two inspectors when the canning operation had been completed. The overall conclusion in the Director General's report was that co-operation from the DPRK side remained limited and continued to be linked to the DPRK's perception of progress in implementing the Agreed Framework between the DPRK and the United States.

3. In the light of the lack of progress on important issues and of the Director General's report in document GC(42)/16, the General Conference adopted resolution GC(42)/RES/2 which, inter alia, expressed concern over the continuing non-compliance of the DPRK with its Safeguards Agreement, called upon the DPRK to comply with the Agreement and urged the DPRK to take all steps that the Agency may deem necessary to preserve all information relevant to verifying the accuracy and completeness of the DPRK's initial report.

DEVELOPMENTS SINCE THE FORTY-SECOND REGULAR SESSION OF THE GENERAL CONFERENCE

4. Since last year's General Conference, the Agency has continued to monitor the freeze. However, toAs of the date of this report there have been no new developments to changealter the assessments givenprovided to the Board by the Director General in November 1998, March 1999 and June 1999. 11. CCo-operation from the DPRK side remains still limited. The tTechnical discussions have enabled to resolve some day-to-day problems to be resolved,and the DPRK has agreed to the designation of additional inspectors. for example, the first part of the integrated monitoring system on the mixer-settler motors at the reprocessing plant has been installed to monitor any operation of the mixer-settlers. However, t. The present surveillance systems will be replaced with digital surveillance in 1999. he DPRK still needs to provide the required inspector access to certain technical buildings at the 5 MW(e) Experimental Power Reactor so that the Agency can verify the scope of operations there. Additionally, the DPRK still refuses to accept other measures at the reprocessing plant, such as the sealing of parts of processes; the installation of the Agency monitoring equipment for liquid nuclear wastes; or any sampling or measurement at any location to ensure that there have been no operations at the plant. The DPRK also continues to refuse to enable the Agency to take measurements for assessing the total amount of plutonium in the spent fuel rods of the 5 MW(e) Experimental Power Reactor and to decline sampling of graphite blocks for the 50 MW(e) reactor which could confirm whether the graphite presented is of nuclear grade and hence a key component of the reactor subject to the freeze.

5. Two more rounds of technical discussions with the DPRK have taken place since last year's General Conference: on 5-8 October 1998 in Vienna and on 10-12 March 1999 in Pyongyang. In September 1995 the IAEA gave the DPRK its requirements for the preservation of information required by the IAEA to verify the correctness and completeness of the initial DPRK declaration. At the eleventh round of discussions in October 1998, the DPRK tabled a revised version of its own list, giving titles, the time periods covered and brief descriptions of the contents of documents which, in the DPRK view, should be preserved with regard to the facilities subject and not subject to the freeze. However, the DPRK paper did not include any proposals with regard to methods of preservation and does not include preservation of information other than records.

6. Referring to these and related developments at At the meeting of the Board of Governors on 25 November 1998, the Director General noted that, since 1995, there had been no positive results either to Agencyour efforts to obtain access to the information which itthe Agency deems necessary to preserve to enable it to verify in the future, in relation to the accuracy and completeness of the DPRK's initial declaration, orand to reach agreement on methods for preserving such information intacton the measures required for its preservation. The Director General made clear that, uUnless such information is preserved in a verifiable manner, it will be difficult, if not impossible, for the Agency to verify in the future, the DPRK's compliance with its Safeguards Agreement. The General Conference will recall thatand that under the Agreed Framework between the DPRK and the United States of America, such verification of compliance is necessary under the Agreed Framework before any key nuclear components of the light water reactors foreseen in that document can be delivered.

7. At theThe twelfth round of technical talks in March 1999, dlt was decided to continue discussions continuedat working level about the records which are part of the information to be preserved in connection with verifying the initial declaration,. although tThe Agency's study of the DPRK paper of, dated October 1998, and IAEA-DPRK and preceding working group discussions had confirmed that, from the Agency's point of view, the list does not include all the documents which need to be preserved in respect of for facilities subject and not subject to the freeze.

8. During the visit to Nyongbyon on 11 March 1999, the Agency alsotechnical visit it was concluded that, in view of theremaining fact that the canning operation and remaining related activities at the 5 MW(e) Experimental Power Reactor are nearing completion, the number of Agency inspectors continuously present in Nyongbyon could be reduced from three inspect ors to two. No tangible progress was made with regard to in any of long outstanding and important issues. The DPRK continues to link progress to the implementation of the Agreed Framework.

9. At the meeting of the Board of Governors on 7 June 1999, the Director General reported again that there hadve been no positive developments developments to any of the long outstanding issues since the March 1999 Board Meeting. meeting and continues to permanent He also noted that the Safeguards Implementation Report (SIR) for 1998 records, inter alia, the Secretariat's continuing inability to verify the DPRK's initial inventory declaration, and hence to draw conclusions about the non-diversion of nuclear material, and that the DPRK remains in non-compliance with its Safeguards Agreement.

10. The fundamental difference of view between the Agency and the DPRK about the status of the DPRK's Safeguards Agreement remains unchanged. The Agency regards the Safeguards Agreement as binding and in force. The DPRK does not accept all the measures required under the Safeguards Agreement but in practice it accepts ad hoc and routine inspections at facilities not subject to the freeze without major difficulties.

11. At a time when the canning operation at the 5 MW(e) Experimental Power Reactor is nearing completion, and as the time envisaged under the Agreed Framework for the delivery of key nuclear components of the LWR project draws nearer, the Secretariat will be focusing on the preparatory work required for verification of the correctness and completeness of DPRK's initial declaration. From its past experience of such verification activities, the Secretariat assesses that this process will take some time. It will require full cooperation on the part of the DPRK. The Director General hopes the DPRK will come into full compliance with its Safeguards Agreement as early as possible.

Enclosure II

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Resolution GC(43)/Res/3 adopted on 1 October 1999 during the ninth plenary meeting

The General Conference,

(a) *Recalling* the Board of Governors' resolutions GOV/2636 of 25 February 1993, GOV/2639 of 18 March 1993, GOV/2645 of 1 April 1993, GOV/2692 of 23 September 1993, GOV/2711 of 21 March 1994 and GOV/2742 of 10 June 1994 and General Conference resolutions GC(XXXVII)/RES/624 of 1 October 1993, GC(XXXVIII)/RES/16 of 23 September 1994, GC(39)/RES/3 of 22 September 1995, GC(40)/RES/4 of 20 September 1996, GC(41)/RES/22 of 3 October 1997 and GC(42)/RES/2 of 25 September 1998,

(b) *Noting* with concern the lack of progress reflected in the Director General's report contained in document GC(43)/23,

(c) *Recalling further* resolution 825 (1993) adopted by the Security Council of the United Nations on 11 May 1993 and 31 March 1994, 30 May 1994 and 4 November 1994 statements by the President of the United Nations Security Council, particularly the request to take all steps the Agency may deem necessary to verify full compliance by the Democratic People's Republic of Korea (DPRK) with its safeguards agreement with the Agency,

(d) *Noting* that the DPRK has decided to remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons and *reaffirming* that the IAEA-DPRK safeguards agreement (INFCIRC/403) under the Treaty remains binding and in force,

(e) *Noting also* the stated intention of the DPRK to come into full compliance with the safeguards agreement and the continuing IAEA-DPRK discussions on outstanding safeguards issues,

(f) *Noting* with regret that in these discussions no progress has been made on important issues such as the preservation of information, and

(g) *Regretting* the withdrawal of the DPRK from the Agency and *expressing the hope* that the DPRK will rejoin,

1. *Strongly endorses* actions taken by the Board of Governors and *commends* the Director General and the Secretariat for their impartial efforts to implement the IAEA-DPRK safeguards agreement;

2. *Recognizes* the important role of the IAEA in monitoring the freeze of nuclear facilities in the DPRK and *commends* the Secretariat for its continuous efforts to monitor the freeze of specified facilities in the DPRK as requested by the United Nations Security Council;

3. *Expresses* deep concern over the continuing non-compliance of the DPRK with the IAEA-DPRK safeguards agreement, in spite of repeated calls by the international community for such compliance, and *calls upon* the DPRK to comply fully with that safeguards agreement;

4. *Urges* the DPRK to co-operate fully with the Agency in the implementation of the safeguards agreement and to take all steps the Agency may deem necessary to preserve all information relevant to verifying the accuracy and completeness of the DPRK's initial report on the inventory of nuclear material subject to safeguards until the DPRK comes into full compliance with its safeguards agreement; and

5. *Decides* to remain seized of this matter and include in the agenda for its forty-fourth regular session an item entitled "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons".